

RECEIVED 003  
CENTRAL FAX CENTER

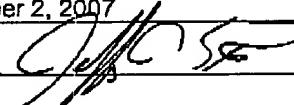
NOV 2 - 2007

Doc Code: AP.PRE.REQ

PTO/SB/SS (07-05)

Approved for use through 10/01/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 03-509-A
<p>I hereby certify that this correspondence is being transmitted to the USPTO facsimile number 571-273-8300, according to 37 CFR 1.6(d) addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on November 2, 2007</p> <p>Signature </p> <p>Typed or printed name Jeffrey A. Steck</p>		<p>Application Number 09/972,424</p> <p>Filed October 4, 2001</p> <p>First Named Inventor Matichuk</p> <p>Art Unit 2145</p> <p>Examiner A. Choudhury</p>

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- applicant/inventor.
- assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)
- attorney or agent of record.  
Registration number 40,184
- attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_



Signature

Jeffrey A. Steck

Typed or printed name

312 913-2115

Telephone number

November 2, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.  
www.USCourtForms.com

RECEIVED  
CENTRAL FAX CENTER

NOV 2 - 2007

**STATEMENT OF REASONS FOR REVIEW**

The invention as claimed in the pending claims relates generally to a type of remote programming of a media recorder, performed over a network such as the World Wide Web. For example, an individual browsing the Web at his office may see on a Web page an advertisement for a scheduled television program. The applicant's disclosure enables that individual to program his home media recorder to record the program simply by clicking on the advertisement from his office. Because an individual's office and his home media recorder may be widely separated, the applicant's disclosure describes technologies for associating the user with his recorder. These technologies make use of identification information, such as digital "cookies," each of which can contain "user id and a unit serial number for the [digital video recorder] associated with the user id." Par. [00182].

Whereas the technologies described in the applicants' disclosure enable a particularly convenient way to program one's recorder over the Web, the Killian reference (U.S. Patent No. 6,163,316) alleged to anticipate all claims the present application merely provides a way to program one's recorder locally. A local user of Killian's system may benefit from other capabilities of the Web: for example, program guide information can free a user from manually entering a program's start time, and the user may be able to view a Web site about a program while the program is playing. This is not the same, though, as being able to program one's recorder over the Web using the technologies disclosed by the applicant. Given the divergent goals of the applicant's disclosure versus that of Killian, it is not surprising that Killian fails to disclose each element recited in the applicant's claims. Because of these shortcomings of the Killian disclosure, described in further detail below, Killian cannot anticipate the applicant's claims, and the applicant respectfully requests

reconsideration and withdrawal of the claim rejections.

#### **A. Claim 1**

Claim 1 recites the use of an "advertisement" in the programming of a media recorder. It provides for "selection of the advertisement," and programming of the media recorder is performed "in response to selection of the advertisement." Killian does not disclose any such uses of an advertisement. In particular, the only advertisements described in Killian are advertisements for products shown during a commercial break:

During a commercial break in the program, information regarding the advertised product might be retrieved from a web site associated with the product and synchronously and integrally displayed along with the commercial.

See col. 5, lines 62-66.

For example, with respect to updating integrated displays, if a program switches to a commercial break, control API 60 may cause a web page or other Internet information associated with the advertised product to be displayed on television 40 in synchronization with the displayed commercial to provide additional product information or an opportunity to order or comment on the product.

See col. 7, lines 16-22. There is no disclosure in Killian of any recording being performed or scheduled in response to any advertisement.

#### **B. Claims 19, 24, and 37**

Claims 19, 24, and 37 all recite a step of "receiving ... a selection of an advertisement of a broadcast program." As noted above with respect to claim 1, Killian does not disclose any "advertisement of a broadcast program," nor any way to select any such advertisement.

These claims further recite the extraction of "identification information" that is used for "logging into the source web service" (claim 19) or "accessing" such a service (claims 24, 37). The Office Action equates the claimed "identification information" with the "viewer profiles" described by Killian in column 10, lines 1-17. The viewer profiles described in that excerpt of Killian, however, are not used to log in to any web service; rather, they amount only to a collection of user preferences:

For each option presented to the viewer in connection with preference templates 82, preference templates 82 allow the viewer to provide ranking information that EPG 70 uses to generate viewer profile 84 and provide enhanced viewing opportunities according to viewer profile 84, as discussed more fully below. Referring to FIG. 4, genre preference template 82 includes options 86 and corresponding rankings 88 in any suitable presentation format that is viewable on television 40. In one embodiment, the viewer provides a ranking 88 for each option 86 to indicate the desirability of programming associated with option 86 according to any suitable scale, standard, or other criteria. For example, for each option 86, template 82 might include any number of circles, boxes, or other locations on template 82 that each correspond to a qualitative assessment of the degree to which the viewer will likely enjoy programming associated with option 86.

Col. 10, lines 1-17. It is not disclosed in Killian to use one's user preferences to log on to a web service. Moreover, the Office Action equates the claimed "web service" with Killian's disclosure of "an EPG applet 70 that is downloaded from the Internet to run on platform 12."

Col. 8, lines 5-7. This applet, however, is not a "web service." It may originally have been downloaded from the Internet, but it is executed locally, and the tasks it performs are performed locally. By analogy, a person running a copy of Adobe Acrobat or other software on his local computer is not said to be using a "web service" merely because that software may have been purchased and downloaded over the web.

**C. Claim 29**

Claim 29 recites the use of a “first server” and a “second server.” The Office Action equates these servers with elements 48 and 48, respectively, of Killian. Although element 46 is a “database server,” element 48 is merely the “database” that is maintained by the database server; it is not a separate server. In particular, claim 29 recites that the second server operates to “authenticat[e]” the user and to “program the media-based device.” Killian, however, contains no disclosure of elements 46 or 48—or any other element—performing “authentication.” Elements 46 and 48 merely provide program schedules: they do not require authentication to access these schedules, and even if their scheduling information is useful for programming the recorder of Killian, they do not themselves “access[] the media-based device to program the media-based device,” as recited in claim 29.

**D. Claim 33**

Claim 33 recites the programming of a media-based device in response to selection of an online advertisement, a feature not disclosed in Killian. Moreover, claim 33 recites that selection of the advertisement is performed at “a client side system,” while the automatic programming of the media-based device is performed by “a server side system.” In the rejection of claim 33, the Office Action equates the claimed “server side system” with the use of a local “EPG API” that queries a program guide database (48). The program guide database, however, merely provides information on the program schedule; it does not program the media-based device. Rather, the media device is programmed on the client side, by the EPG API.

**E. Claim 35**

Claim 35 recites the programming of a media-based device through a selection of an advertisement. As discussed above, this feature is not disclosed in Killian.

Date: November 2, 2007

  
\_\_\_\_\_  
Jeffrey A. Steck  
Reg. No. 40,184